

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

UNITED STATES OF AMERICA : CRIMINAL NO. 5:22-CR-00049 (GWC)
 :
v. :
 :
 :
NATHAN CARMAN : APRIL 14, 2023

**DEFENDANT NATHAN CARMAN'S
MOTION FOR NOTICE OF INTENT TO USE
RESIDUAL HEARSAY EXCEPTION UNDER RULE 807**

Defendant, Nathan Carman, respectfully moves this Court for an order requiring the Government to provide notice of its intent to offer any statement it intends to offer into evidence pursuant to Fed. R. Evid. 807. Mr. Carman requests also that the order require the Government to provide notice of the particulars of the statement, including the name and address of the declarant. The Court should grant Mr. Carman's motion.

Rules 803 and 804 of the Federal Rules of Evidence set forth specific hearsay exceptions. Rule 807 is a residual hearsay exception for the admission of a statement not specifically covered by any of the exceptions listed in Rules 803 or 804. As a prerequisite for admitting a statement under Rule 807, the proponent is required to do as follows: to make the statement known to the adverse party sufficiently in advance of trial or hearing in order to provide the adverse party with a fair opportunity to prepare and meet it; the proponent's intention to offer the statement; and the particulars of the statement, including the name and address of the declarant. *See* Fed. R. Evid. 807(b). Through this Motion, Mr. Carman puts the Government on notice that he seeks advance notice of such statements, and requests that this Court require the Government to provide pre-trial notice of any such evidence in accord with Rule 807.

In accordance with D. Vt. Local R. Crim. P. 16(f), counsel for Mr. Carman and the Government met and conferred telephonically regarding the requested disclosure on April 14, 2023,

at approximately 10:00 a.m. Counsel on the meet and confer call on behalf of Mr. Carman was Attorney David X. Sullivan, and counsel for the Government was Assistant U.S. Attorney Nathanael T. Burris.

WHEREFORE, for the reasons set forth herein and in the accompanying memorandum of law, Defendant, Nathan Carman, respectfully requests that the Court grant his Motion for Notice of Intent to Use Residual Hearsay Exception Under Rule 807.

Dated: April 14, 2023
Hartford, Connecticut

Respectfully submitted,

DEFENDANT
NATHAN CARMAN

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CERTIFICATION

I hereby certify that on this date a copy of the foregoing motion was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system and by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF system.

/s/ David X. Sullivan
David X. Sullivan (*Pro Hac Vice*)